

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**IN RE: DEALER MANAGEMENT  
SYSTEMS ANTITRUST LITIGATION**

**This Document Relates To:**

**THE DEALERSHIP CLASS ACTION**

MDL No. 2817

Case No. 18-cv-00864

Hon. Robert M. Dow, Jr.

Magistrate Judge Jeffrey T. Gilbert

**DEALERSHIP CLASS PLAINTIFFS' MOTION FOR LEAVE TO  
SUBMIT SUPPLEMENTAL AUTHORITY IN SUPPORT OF THEIR  
OPPOSITION TO DEFENDANT CDK GLOBAL, LLC'S MOTION TO  
DISMISS THE CONSOLIDATED CLASS ACTION COMPLAINT**

Dealership Class Plaintiffs respectfully submit this motion (“Motion”) for leave to submit supplemental authority in support of their opposition to Defendant CDK Global, LLC’s (“CDK”) motion to dismiss the Consolidated Class Action Complaint. *See* Dealership Class Plaintiffs’ Omnibus Memorandum of Law in Opposition to (1) Defendants’ Motions to Compel Arbitration and Stay Claims; and (2) Motions to Dismiss the Consolidated Class Action Complaint (Dkt. 358).<sup>1</sup> The grounds for the Motion are as follows:

1. On October 15, 2018, the First Circuit Court of Appeals issued a decision in *In re Asacol Antitrust Litigation*, No. 18-1065, 2018 WL 4958856. In that case, the plaintiffs, indirect purchasers of certain pharmaceutical products, filed an antitrust class action on behalf of purchasers in 25 states and the District of Columbia, which had enacted *Illinois Brick*<sup>2</sup> repealer laws. At issue was whether the named plaintiffs had Article III standing to sue on behalf of purchasers in twenty-two states in which no named plaintiff resided or purchased the products. 2018 WL 4958856, at \*3.

2. The First Circuit ruled that the named plaintiffs could sue on behalf of purchasers in other states, explaining: “Importantly, the claims of the named plaintiffs parallel those of the putative class members in the sense that, assuming a proper class is certified, success on the claim under one state’s law will more or less dictate success under another state’s law.” *Id.* at \*4.<sup>3</sup>

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<sup>1</sup> Defendant The Reynolds and Reynolds Company’s (“Reynolds”) motion to dismiss (Dkt. 252) has been stricken as moot in light of the proposed settlement between the Dealership Class Plaintiffs and Reynolds. *See* Dkt. 412.

<sup>2</sup> *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977).

<sup>3</sup> The court found that the plaintiffs had waived opposition to the defendant’s motion with respect to claims under New York Gen. Bus. Law § 349(a). 2018 WL 4958856, at \*5. The court also reversed the district court’s class certification decision on other grounds not relevant here, and remanded the action for further proceedings. *Id.* at \*11-12.

3. Dealership Class Plaintiffs respectfully submit that *Asacol* is pertinent to standing issues raised in CDK's motion to dismiss the Consolidated Class Action Complaint. *See* Dkt. 265 at 27 (arguing that named plaintiffs could not state claims based on laws of states in which they did not have a principal place of business or sustain injury).

Dated: October 17, 2018

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Peggy J. Wedgworth, an attorney, hereby certify that on October 17, 2018, I caused a true and correct copy of the foregoing **DEALERSHIP CLASS PLAINTIFFS' MOTION FOR LEAVE TO SUBMIT SUPPLEMENTAL AUTHORITY IN SUPPORT OF THEIR OPPOSITION TO DEFENDANT CDK GLOBAL, LLC'S MOTION TO DISMISS THE CONSOLIDATED CLASS ACTION COMPLAINT** to be filed and served electronically via the Court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Peggy J. Wedgworth

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